

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ELVIN EARL SPEARMAN \$
VS. \$ CIVIL ACTION NO. 1:05cv14
UNITED STATES OF AMERICA \$

MEMORANDUM ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION

Movant Elvin Earl Spearman, proceeding *pro se*, brought this motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255.

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends this action be dismissed.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

O R D E R

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. Because the motion had been administratively closed pending the appointment of counsel, it is

ORDERED that the Clerk of Court is **DIRECTED** to reinstate the above-styled action on the court's active docket. A final judgment

will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED this the **5** day of **March, 2008**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield
United States District Judge